



**House
Legislative
Analysis
Section**

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ADOPTION: MEDICAL AND OTHER INFORMATION

House Bill 4407 as passed by the House
Second Analysis (2-7-90)

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Sponsor: Rep. David Honigman
Committee: Judiciary

Mich. State Law Library

THE APPARENT PROBLEM:

Of longstanding concern in matters pertaining to adoption is the difficulty in transferring medically important information between a biological family and an adoptee. Many inherited disorders are not evident at birth, and at the time of adoption, the biological family may not be aware of any genetic risk. However, if a genetically transmitted disease later appears in a family, there is no explicit statutory procedure to enable the biological family to get important information to an adoptee or adoptive parents. Medical information from a biological family can ensure early identification and treatment of a wide range of disorders of varying severity. Further, knowledge of the risk of some genetically transmitted diseases may affect an adoptee's own childbearing decisions.

The lack of a statutory mechanism to exchange medical information also affects adoptees who fall ill from diseases that require, for instance, bone marrow or organ transplants to ensure the person's survival. In such cases, the ability to locate good tissue matches can mean the difference between life and death. Statutory procedures have been proposed that allow the exchange of medically important information between adoptees and biological families by using child placing agencies, courts, and the Department of Social Services as conduits for the information.

The adoption code at present provides for the exchange of adoption-related information in several ways, distinguishing between "identifying" and "nonidentifying" information related to an adoption, and providing separate procedures under which birth parents and adoptees can have access to the two different types of information. What is lacking, say adoption reform advocates, are assurances that interested parties will be made aware of the available procedures. Amendments to that end have been proposed.

Finally, it occasionally happens that a family member wishes to adopt a child but is thwarted by the adoption code's limits on in-family adoptions. If those limits were eased, more children could be adopted within their own families.

THE CONTENT OF THE BILL:

The bill would amend the adoption code to establish a mechanism for the exchange of information on medical and genetic conditions between adoptees (along with their adoptive parents) and their biological families. Parties to an adoption would, at certain times, be notified of the statutory procedures under which certain information could be obtained. Among those procedures would be the bill's requirement that the court that terminated parental rights provide the identity of the agency, court, or department to which a child was committed, if requested to do so by the biological parents or adult biological siblings of the child. The bill also would allow direct consent adoptions to the fifth (rather than the currently allowed fourth) degree of

consanguinity, meaning, for instance, that a parent's cousin could adopt a child without going through the procedures required for non-family adoptions. A more detailed explanation follows.

Medical information. Different procedures would apply depending on whether the information was to inform an adoptee of a life-threatening condition, to inform an adoptee of a condition that was not life-threatening, or to inform biological family of a condition that threatened the life of the adoptee and for which a biologically-related person might be able to give life-saving aid. If a child placing agency, court, or the department received physician-verified information from a biological relative that an adoptee's life was seriously threatened, it would send a written copy of the information by first-class mail within seven days to the last known address of the adoptee, or in the case of a minor, to the adoptee's adoptive parents. If that letter was returned undelivered, a reasonable effort would be made to find the most recent address and the letter would be sent again. Similar procedures would apply when an adoptee or someone acting on his or her behalf requested the placing agency, court, or department to notify the biological family of a condition that threatened the adoptee's life and for which a biologically related person could give life-saving aid.

For a family condition that was not life-threatening to an adoptee, the agency, court, or department would place the family-supplied information in its adoption files, where it would be available upon request from an adult adoptee or a minor adoptee's parents.

Notification regarding adoption-related information. The bill would require that at various times, the adoptee (if 14 or more years old), adoptive parents, biological parents, or adult biological siblings be notified of the procedures under which identifying or nonidentifying information can be obtained, medical information could be provided or obtained, or the name the agency to which a child was committed could be obtained. The court ruling on an adoption petition would inform adoptive parents and an adoptee at least 14 years old of the procedures. At the time parental rights were terminated, the court would inform both biological parents. The information would be provided along with the currently provided pamphlet from the department, child placing agency, or court upon request from an adoptee, adult biological sibling, biological parent, or adoptive parent.

Upon request from an adoptee, a biological family member, or adoptive parent, a child placing agency, court, or the DSS would place that person's current address in its adoption files.

Adoption support groups. Generally speaking, various parties would be given lists of adoption support groups whenever those parties are to be notified of procedures for obtaining or providing adoption information.

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10-17-90 / 1-1-90
Direct consent (in-family) adoptions. The bill would extend provisions for in-family adoptions, currently limited to those within the fourth degree of consanguinity, to those within the fifth degree of consanguinity related by blood, marriage, or adoption. The bill would list what those relationships would be.

MCL 710.22 et al.

FISCAL IMPLICATIONS:

The House Fiscal Agency says that the bill would have no fiscal implications. (10-25-89)

ARGUMENTS:

For:

The exchange of information can be vitally important to the physical and emotional well-being of adoptees and their birth families. The law recognizes the desire many adoptees and birth families share to know more about one another by providing mechanisms for the release of various items of information concerning place and time of birth, religion of birth family, and last known names and addresses of various birth and adoptive family members. The law does not, however, provide a mechanism by which critical medical information can be exchanged. The bill would remedy this oversight, plus help to ensure that all interested parties knew how information could be offered and obtained. Confidentiality for various parties would not be breached: various agencies would serve as channels for information.

Against:

Many adoptions were conducted under conditions of anonymity, and the law respects the privacy of various parties by maintaining certain barriers to the disclosure of identifying information such as names and addresses. Recent trends have been toward more open adoptions and the erosion of various statutory impediments to obtaining adoption-related information, but it is still important to preserve the confidentiality of adoptions where the parties wish to protect their privacy. The bill, however, would aid in what could be misguided adoption search efforts by putting parties in touch with adoption support groups and by allowing biological family members to demand the identity of the agency, court, or department to which a child put up for adoption was committed.

Response: Biological family members already have the right to certain information. By allowing them to demand agency names, the bill would allow them to find out who has that information.

Against:

By requiring an agency to make a "reasonable effort" to locate someone when medical problems arise, the bill would increase demands on various agencies, many of which are pressed to comply with existing requirements for the providing of information. It is not clear what would constitute a "reasonable effort" when the person's last known address was no longer current. It should be the responsibility of the people involved to keep the agencies up-to-date.

For:

By easing restrictions on in-family adoptions, the bill would enable more family members who wish to adopt children to do so.

POSITIONS:

The Adoption Reform Movement of Michigan supports the bill. (1-19-90)

The Michigan Federation of Private Child and Family Agencies is reviewing the bill, and has no position at present. (1-24-90)

The Department of Social Services does not support the bill as written. (2-5-90)